

The Examiner has identified inventions II and I as being related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §806.05(c)).

If there is no evidence that combination AB_{sp} is patentable without the details of B_{sp}, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B_{sp} constitutes the essential distinguishing feature of the combination AB_{sp} as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility. (MPEP §806.05(c) II).

In this case, the combination AB_{sp} is the kiln having a plurality of ports (A) and the improved apparatus for penetrating said deposits and cleaning said deposits from said interior walls is the subcombination (B_{sp}). In as much as independent claim 15 is written in Jepson format, with the preamble recitation “In a kiln having a plurality of ports...,” it is the subcombination that must constitute the distinguishing feature of the combination AB_{sp}. Accordingly, the inventions I and II identified by the Examiner are not distinct and the requirement for restriction must not be made. This is true regardless of whether the subcombination has separate utility.

For the foregoing reasons, applicant requests reconsideration and withdrawal of the restriction requirement and that the application be examined on all claims 1-22.

Applicant requests amendment of the attorney docket number from 12776/24 to
043546.001.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: 

Brendan E. Squire

Registration No. 48,749

Suite 3100, Promenade II
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Telephone: (404) 815-3768
Facsimile: (404) 685-7068

LIT/835346.1